

have voted on several missed votes during a recent illness last month.

#### VOTES MISSED DURING ILLNESS

Mr. Speaker, last month I underwent emergency surgery and then spent some time recuperating. As a result, I missed a number of recorded votes. Had I been present, I would have voted as follows:

On vote number 122—no.  
On vote number 123—yes.  
On vote number 124—no.  
On vote number 125—yes.  
On vote number 126—yes.  
On vote number 127—no.  
On vote number 128—yes.  
On vote number 129—no.  
On vote number 130—yes.  
On vote number 131—yes.  
On vote number 132—no.  
On vote number 133—no.  
On vote number 134—no.  
On vote number 135—yes.  
On vote number 136—yes.  
On vote number 137—no.  
On vote number 138—yes.  
On vote number 139—yes.  
On vote number 140—yes.  
On vote number 141—yes.  
On vote number 142—yes.  
On vote number 143—yes.  
On vote number 144—no.  
On vote number 145—no.  
On vote number 146—yes.  
On vote number 147—yes.  
On vote number 148—yes.  
On vote number 149—yes.  
On vote number 150—no.  
On vote number 151—no.  
On vote number 152—no.  
On vote number 153—no.  
On vote number 154—yes.  
On vote number 155—no.  
On vote number 156—yes.  
On vote number 157—yes.  
On vote number 158—yes.  
On vote number 159—yes.  
On vote number 160—no.  
On vote number 161—yes.  
On vote number 162—yes.  
On vote number 163—no.  
On vote number 175—yes.  
On vote number 178—yes.  
On vote number 181—yes.  
On vote number 182—no.  
On vote number 183—yes.  
On vote number 184—yes.  
On vote number 185—yes.  
On vote number 186—no.  
On vote number 187—no.  
On vote number 188—no.  
On vote number 189—yes.  
On vote number 190—yes.  
On vote number 191—yes.  
On vote number 192—no.

#### PERSONAL EXPLANATION

Mrs. MINK of Hawaii. Mr. Speaker, according to the printed RECORD, I was recorded as not voting on rollcall 247 on Thursday, June 18, 1998. I was on the floor and voting.

I wish to have the fact reflected that had I been recorded, I would have voted "no."

#### SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BLUNT). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### RESTRICTIONS ON DISCLOSURE OF INFORMATION BY PROSECUTORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I include for the RECORD the following excerpts from the Department of Justice guidelines, the Rules of Professional Responsibility for the District of Columbia Bar, the American Bar Association's Standards of Professional Conduct, and the Rule of the District Court of the District of Columbia concerning a prosecutor's obligations not to publicly disclose confidential investigative information.

The material referred to is as follows:

#### DEPARTMENT OF JUSTICE GUIDELINES RE: LEAKS TO PRESS

##### 1-7.510 *Non-Disclosure of Information*

At no time shall any component or personnel of the Department of Justice furnish any statement or information that he or she knows or reasonably should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding.

(United States Attorneys' Manual, Chapter 7, Section 1-7.510)

##### 1-7.530 *Disclosure of Information Concerning Ongoing Investigations*

a. Except as provided in subparagraph (b) of this paragraph, components and personnel of the Department shall not respond to questions about the existence of an ongoing investigation or comment on its nature or progress, including such things as the issuance or serving of a subpoena, prior to the public filing of the document.

b. In matters that have already received substantial publicity, or about which the community needs to be reassured that the appropriate law enforcement agency is investigating the incident, or where release of information is necessary to protect the public interest, safety, or welfare, comments about or confirmation of an ongoing investigation may need to be made

##### 1-7.550 *Concerns of Prejudice*

Because the release of certain types of information could tend to prejudice an adjudicative proceeding, Department personnel should refrain from making available the following:

a. Observations about a defendant's character;

b. Statements, admissions, confessions, or alibis attributable to a defendant, or the refusal or failure of the accused to make a statement;

c. Reference to investigative procedures, such as fingerprints, polygraph examinations, ballistics tests, or forensics services, including DNA testing, or to the refusal by the defendant to submit to such tests or examinations;

d. Statements concerning the identity, testimony, or credibility of prospective witnesses;

e. Statements concerning evidence or argument in the case, whether or not it is anticipated that such evidence or argument will be used at trial;

f. Any opinion as to the defendant's guilt, or the possibility of a plea of guilty to the offense charged, or the possibility of a plea of a lesser offense.

(United States Attorneys' Manual Chapter 7, Section 1-7.550)

#### RULES OF PROFESSIONAL RESPONSIBILITY (DC BAR) RE: LEAKS TO PRESS

Rule 3.8 Special Responsibilities of a Prosecutor

The Prosecutor in a Criminal Case Shall Not:

(f) Except for statements which are necessary to inform the public of the nature and extent of the prosecutor's action and which serve a legitimate law enforcement purpose, make extrajudicial comments which serve to heighten condemnation of the accused;

(District of Columbia Rules of Court—Rules Governing the District of Columbia Bar. Appendix A, Rules of Professional Conduct Advocate, Rule 3.8)

Comment [2] . . . Indeed, because of the power and visibility of a prosecutor, the prosecutor's compliance with these Rules, and recognition of the need to refrain even from some actions technically allowed to other lawyers under the Rules, may, in certain instances, be of special importance. For example, Rule 3.6 prohibits extrajudicial statements that will have a substantial likelihood of destroying the impartiality of the judge or jury. In the context of a criminal prosecution, pretrial publicity can present the further problem of giving the public the incorrect impression that the accused is guilty before having been proven guilty through the due process of the law. It is unavoidable, of course, that the publication of an indictment may itself have severe consequences for an accused. What is avoidable, however, is extrajudicial comment by a prosecutor that serves unnecessarily to heighten public condemnation of the accused without a legitimate law enforcement purpose before the criminal process has taken its course. When that occurs, even if the ultimate trial is not prejudiced, the accused may be subjected to unfair and unnecessary condemnation before the trial takes place. Accordingly, a prosecutor should use special care to avoid publicity, such as through televised press conferences, which would unnecessarily heighten condemnation of the accused.

(District of Columbia Rules of Court—Rules Governing the District of Columbia Bar. Appendix A, Rules of Professional Conduct Advocate, Comment 2)

Comment [3] Nothing in this comment, however, is intended to suggest that a prosecutor may not inform the public of such matters as whether an official investigation has ended or is continuing, or who participated in it, and the prosecutor may respond to press inquiries to clarify such things as technicalities of the indictment, the status of the matter, or the legal procedures that will follow. Also, a prosecutor should be free to respond, insofar as necessary, to any extrajudicial allegations by the defense of unprofessional or unlawful conduct on the part of the prosecutor's office.

(District of Columbia Rules of Court—Rules Governing the District of Columbia Bar. Appendix A, Rules of Professional Conduct Advocate, Comment 3)

#### ABA STANDARDS RE: LEAKS TO PRESS

##### Standards 3-1.4 Public Statements

(a) A prosecutor should not make or authorize the making of an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the prosecutor knows or reasonably should know that it will have a substantial likelihood of prejudicing a criminal proceeding.

(b) A prosecutor should exercise reasonable care to prevent investigators, law enforcement personnel, employees, or other persons assisting or associated with the prosecutor from making an extrajudicial statement that the prosecutor would be prohibited from making under this Standard.

(ABA Standards for Criminal Justice: Prosecution Function and Defense Function, 3rd ed., Standard 3-1.4.0, p. 12-13)

Relationship to Other Standards (Standard 3-1.4)

. . . Both Model Rule 3.6 and the Fair Trial and Free Press Standards contain lists of the types of statements that can ordinarily be presumed to violate or not to violate the strictures of this section. Fair Trial and Free Press Standards 8-1.1(b) and (c) provide as follows:

(b) Statements relating to the following matters are ordinarily likely to have a substantial likelihood of prejudicing a criminal proceeding:

\* \* \* \* \*

(3) the opinion of the lawyer on the guilt of the defendant, the merits of the case or the merits of the evidence in the case;

(4) the existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make a statement;

(5) the performance of any examinations or tests, or the accused's refusal or failure to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

\* \* \* \* \*

(8) information which the lawyer knows or has reason to know would be inadmissible as evidence in a trial;

Standard 3-1.5 Duty to Respond to Misconduct

(a) Where a prosecutor knows that another person associated with the prosecutor's office is engaged in action, intends to act or refuses to act in a manner that is a violation of a legal obligation to the prosecutor's office or a violation of law, the prosecutor should follow the policies of the prosecutor's office concerning such matters.

(ABA Standards for Criminal Justice Prosecution Function and Defense Function, Standard 3-1.5 (a), p. 17)

#### D.C. DISTRICT COURT RULES RE: LEAKS TO PRESS

#### RULES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

#### Title III. Criminal Rules.

(b) Conduct of Attorneys in Criminal Cases.

(1) It is the duty of the lawyer or law firm not to release or authorize release of information or opinion which a reasonable person would expect to be disseminated by means of public communication, in connection with pending or imminent criminal litigation with which the lawyer or the law firm is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

(2) With respect to a grand jury or other pending investigation of any criminal matter, a lawyer participating in or associated with the investigation shall refrain from making any extrajudicial statement which a reasonable person would expect to be disseminated by means of public communication, that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

(3) the prosecution . . . shall not release or authorize the release of any extrajudicial statement which a reasonable person would expect to be disseminated by means of public communication, relating to that matter and concerning:

(ii) The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;

(iii) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

(v) The possibility of a plea of guilty to the offense charged or a lesser offense;

(vi) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

(District of Columbia Rules of Court—Rules of the US District Court for D.C., Title III. Criminal Rules, Rule 308b)

(c) Orders in Widely Publicized or Sensational Cases. In a widely publicized or sensational criminal case, the Court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties, witnesses and attorneys likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the Court may deem appropriate for inclusion in such an order.

(District of Columbia Rules of Court—Rules of the US District Court for D.C., Title III. Criminal Rules, Rule 308b)

Mr. Speaker, the Department of Justice guidelines concerning leaks to the press, 1-7.510, Non-Disclosure of Information:

At no time shall any component or personnel of the Department of Justice furnish any statement or information that he or she knows or reasonably should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding.

From the United States Attorneys' Manual, Chapter 7, Section 1-7.510.

Disclosure of Information Concerning Ongoing Investigations:

The Department shall not respond to questions about the existence of an ongoing investigation or comment on its nature or progress.

#### 1-7.550. Concerns of Prejudice:

Department personnel should refrain from making available the following:

Section a. Observations about a defendant's character;

Section b. Statements, admissions, confessions, or alibis attributable to a defendant, or the refusal or failure of the accused to make a statement;

Section d. Statements concerning the identity, testimony, or credibility of prospective witnesses;

Section e. Statements concerning evidence or argument in the case, whether or not it is anticipated that such evidence or argument will be used at trial;

Section f. Any opinion as to the defendant's guilt, or the possibility of a plea of guilty to the offense charged, or the possibility of a plea of a lesser offense.

From the United States Attorneys' Manual, Chapter 7, Section 1-7.550.

Rules of Professional Responsibility of the D.C. Bar, re Leaks to the Press.

Rule 3.8. Special Responsibilities of a Prosecutor:

The prosecutor in a criminal case shall not make extrajudicial comments which serve to heighten condemnation of the accused. For example, Rule 3.6 prohibits extrajudicial statements that will have a substantial likelihood of destroying the impartiality of the judge or jury. What is avoidable is extrajudicial comment by a prosecutor that serves unnecessarily to heighten public condemnation of the accused without a legitimate law enforcement purpose before the criminal process has taken its course.

Finally, Mr. Speaker, with regard to the American Bar Association's standards concerning leaks to the press.

Standards 3-1.4(b):

A prosecutor should exercise reasonable care to prevent investigators, law enforcement personnel, employees, or other persons assisting or associated with the prosecutor from making an extrajudicial statement that the prosecutor would be prohibited from making under this Standard. Statements relating to the following matters are ordinarily likely to have a substantial likelihood of prejudicing a criminal procedure.

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The opinion of the lawyer on the guilt of the defendant, the merits of the case or the merits of the evidence in the case, the existence or contents of any confession, admission or statement by the accused, or the refusal or failure of the accused to make a statement.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MILLER) is recognized for 5 minutes.

(Mr. MILLER of Florida addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### SUPPORT MY LEGISLATION TO REFORM THE IRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FOX) is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise to address my colleagues tonight with regard to the importance of the reform of IRS. They certainly have gone a step in the right direction, Mr. Speaker, both in the House and the Senate with the IRS restructuring format, and that is certainly a bill I expect to have conference committee approve, have both Chambers approve and then eventually be signed by the President.

But added on to that is certainly another piece of legislation called the Taxpayer Bill of Rights III which I have introduced, Mr. Speaker, and its purpose is to make sure we go even further for our constituents to make sure that they are protected when it comes to dealings with the IRS. We only have to look to September of 1997 when the Senate Finance Committee held hearings and had IRS agents under anonymity, under hoods with scrambled speech testifying in front of Mr. ROTH's committee just to the problems that have been outlined, whether it be fishing expeditions or the fact that mom and pop stores were the ones that were